IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.A.ABDUL GAFOOR
&
THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

THURSDAY, THE 1ST FEBRUARY 2007 / 12TH MAGHA 1928

WP(C).No. 4285 of 2005(S)

{O.A.NO.508/2002 OF THE CENTRAL ADMINISTRATIVE TRIBUNAL,ERNAKULAM BENCH}
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PETITIONER:
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1. THE ADMINISTRATOR,
UNION TERRITORY OF LAKSHADWEEP,
KAVARATTI.

2. THE EXECUTIVE ENGINEER,
DEPARTMENT OF ELECTRICITY,
UNION TERRITORY OF LAKSHADWEEP,
KAVARATTI.

BY ADV. SRI.S.RADHAKRISHNAN,
SC,LAKSHADWEEP ADMN

RESPONDENTS:
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1. MOHAMMED RAFEEQ K.P.,
KEELAPPURA HOUSE,ANDROTH ISLAND,
UNION TERRITORY OF LAKSHADWEEP.

2. T.AKBAR ALI,
THEKKILODA HOUSE,AGATTI LSLAND.

3. AHMED MANIKFAN V.K.,
VADAKE,KADEECHAPPADA,AGATTI.
UNION TERRITORY OF LAKSHADWEEP.

4. ABDUL HAMEED KHAN P.,
PANTHAL,KADMAT,
UNION TERRITORY OF LAKSHADWEEP.

BY ADVS. SRI.AVM.SALAHUDIN
SMT.G.SUMA
SRI.P.K.IBRAHIM

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 01/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONERS' EXHIBITS:

EXT.P1: TRUE COPY OF THE ORDER PASSED BY THE C.A.T, ERNAKULAM BENCH IN O.A.NO.1050 OF 2001 DATED 29.11.2001.

EXT.P2: TRUE COPY OF THE JUDGMENT OF THIS HONOURABLE COURT IN O.P.NO.37002 OF 2001 DATED 27.02.2002.

EXT.P3: TRUE COPY OF THE JUDGMENT OF THIS HONOURABLE COURT IN R.P.NO.423/2002 DATED 02.07.2002.

EXT.P4: TRUE COPY OF THE O.A.NO.508 OF 202 FILED BY THE 1ST RESPONDENT.

EXT.P5: TRUE COPY OF THE REPLY STATEMENT FILED BY THE PETITIONERS.

EXT.P6: TRUE COPY OF THE REJOINDER FILED BY THE 1ST RESPONDENT.

EXT.P7: TRUE COPY OF THE ADDITIONAL REPLY STATEMENT FILED BY THE PETITIONERS.

EXT.P8: TRUE COPY OF THE ORDER PASSED BY THE CAT IN O.A.508 OF 2002 DATED 05.11.2004.

EXT.P9: TRUE COPY OF THE ORDER PASSED BY THE CAT ERNAKULAM BENCH IN M.A.985 OF 2004 IN O.A.508 OF 2002.

RESPONDENTS' EXHIBITS:

EXT.R1(A): TRUE COPY OF THE REPLY STATEMENT AND ITS ANNEXURES FILED BY THE 3RD RESPONDENT BEFORE THE HON'BLE ADMINiSTRATIVE TRIBUNAL, ERNAKULAM BENCH DATED 5.1.03.

EXT.R1(B): PHOTOCOPY OF THE REPLY STATEMENT AND FILED BY THE 4TH RESPONDENT BEFORE THE HON'BLE ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH DATED 24.4.04.

//true copy//

PS to Judge

sk/-

K.A.ABDUL GAFOOR &
K.R.UDAYABHANU, JJ.

W.P.(C).No.4285 of 2005 S

Dated this the 1st day of February, 2007.

JUDGMENT

Abdul Gafoor, J.

Recruitment was notified by the Administration of Union Territory of Lakshadweep for the post of Chargeman/Electrician/Meter Mechanic/Mechanic as per Annexure A7 which stipulated, among other things, 5 years' experience as an essential qualification. Candidates were sponsored by Employment Exchange as well. There were altogether 64 candidates, to compete in the written test. They were interviewed and a rank list was prepared. The first respondent herein was ranked as No.1. There was delay in the selection process and appointment. This resulted in he approaching the Central Administrative Tribunal, Ernakulam Bench, which directed to consider his representation in that

regard. This resulted in Annexure A9(a) in Ext.P4 application filed before the Central Administrative Tribunal and finally the select list itself was cancelled by the Administration. The cancellation was impugned by three other candidates before the Central Administrative Tribunal and including the 2nd respondent. The first respondent did not challenge the cancellation because, according to him, he understood from Annexure A9(a) that none of the candidates were found suitable for the post. The challenge made by the 2nd respondent did not succeed. Therefore, he carried the matter before this court. This court in Ext.P2 judgment found that, out of the 12 candidates included in the list, only 3 candidates including the 2nd respondent were alone qualified for the post and they were directed to be appointed. In this situation, the

first respondent rushed to this court, as according to him, he was also qualified equally as the said three candidates seeking a review of Ext.P2 judgment. The review resulted in Ext.P3, wherein it was observed that if the first respondent had a case that he was qualified equally as the second respondent and other incumbents, he could have approached the authority; but it was further directed that the appointment of the two candidates, from out of the three found to be qualified, could not have been delayed.

2. Accordingly, the first respondent approached the tribunal with Ext.P4 application. In Ext.P4 application, he pleaded that he did have sufficient qualification as the other three candidates. The tribunal, after examining the entire matter, found that he was also equally qualified as the three candidates found to be qualified in Ext.P2

judgment and directed his appointment. It is in the above circumstances the Administration has come up to this court with this writ petition.

3. The prime contention urged in this writ petition is that the 1st respondent was not qualified in terms of Annexure A7 notification, as he did not have 5 years' experience as on the date of interview. This is sought to be substantiated based on the notes prepared by the members of the interview board, Ext.P5 series, wherein the first respondent had been considered as having only two years' experience, whereas the other person including the 2nd respondent had been found to have more than 5 years' experience. But the tribunal had, in Ext.P8 judgment, come to the conclusion, examining the details, that he also had the equal experience in the same manner as the three

candidates found to be qualified by this court in Ext.P2 judgment. It was in the above circumstances, that the direction for his appointment has been effected.

4. When we examine the details of the three candidates, it again comes to light that their experience was also in the private sector as in the case of the first respondent. Administration had no case that Annexure A7 had been published in a newspaper. Admittedly, the first respondent had been sponsored by the Employment Exchange. Necessarily, he would have been sponsored, only if he had satisfied the requirements in Annexure A7. That he did not produce the certificate at the time of interview shall not be a reason to exclude him, as he had not been informed, going by the pleadings of the Administration, that he had been asked to bring all such

certificates. In such circumstances, we do not find any reason to interfere with the order already passed, as he is also placed similarly as the three persons found to be qualified in Ext.P2 by this court.

Writ petitioner, therefore, fails, dismissed.

Sd/-
(K.A.ABDUL GAFOOR)
JUDGE

Sd/-
(K.R.UDAYABHANU)
JUDGE

sk/

//true copy//

K.A.ABDUL GAFOOR &
K.R.UDAYABHANU, JJ.

W.P.(C).No.4285 of 2005 S

JUDGMENT

1st February, 2007.